THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: **The Fatality Inquiries Act**

And

IN THE MATTER OF: **Voila Contois, Deceased**

Report on an Inquest into the Death of
Voila Contois
By the Honourable Judge Richard W. Thompson
March 27, 2003

Appearances:

Mr. Jason Clouston, for the Crown
Mr. Steven Brennan, for the Contois family
Mr. Brian Hay, for the RCMP

Having held the Inquest into the said death on October 28th, November 4th, 5th, 6th, 7th, 8th and 13th, 2002, and January 28th and 29th, 2003, at the City of Dauphin, in the Province of Manitoba, I report as follows:

The name of the deceased is Viola Contois. The deceased came to her death on the 14th of March, 2001 on route between the Village of Mafeking and the Town of Swan River, in the Province of Manitoba. The deceased came to her death by the following means:

Acute ethanol intoxication.

I hereby make the recommendations as set out in the report attached hereto and marked as "Schedule A".

Attached hereto and marked as "Schedule B" and forming part of my report is a schedule of exhibits required to be filed by me.

Dated at the City of Dauphin, Province of Manitoba, this 27th day of March, 2003.

"Richard W. Thompson"
Provincial Court Judge

Copies to: Chief Medical Examiner, Province of Manitoba
Chief Judge, Manitoba Provincial Court
Mr. Jason Clouston, for the Crown
Mr. Steven Brennan, for the Contois family
Mr. Brian Hay, for the RCMP

"Schedule A"

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STANDING

On October 28, 2002 a standing hearing was held. Mr. Steven Brennan acting on behalf of the family of Ms. Viola Contois and Mr. Brian Hay acting on behalf of the RCMP were both granted standing at this hearing.

EVENTS LEADING UP TO THE DEATH OF VIOLA CONTOIS ON MARCH 14, 2001

RCMP Constable Stewart Oman and Constable Brent Novakoski had received several reports about Viola Contois on the date that she died. They had received a report that she had been in a fight and was alleged to have broken windows. She was reported to be grossly intoxicated and may have consumed certain pills.

The statement of Gordon Campbell of Birch River, Manitoba was received as Exhibit 5. He stated that at around 10:30 a.m. Viola and her sister came over to visit him for about 20 minutes. He states "we were really just bull-shitting talking about nothing special." Mr. Campbell says he did not see them again until after supper at around 5:30 or 6:00 p.m. Mr. Campbell's statement includes this question and answer:

"When you saw Viola in the morning what shape was she in?
She seemed fine, sober, both of them."

Beverley Ann Gosselin of Birch River, Manitoba testified at the Inquest. She said that Viola telephoned her around noon after which Viola and her sister Judy Mohammed came over to Ms. Gosselin's house. Viola said she was calling from Gordon Campbell's residence.

Ms. Gosselin testified that Viola had a 26 oz. bottle of vodka with her, which was full upon arrival. Ms. Gosselin prepared a meal and the three women set about eating and drinking the vodka. Eventually Viola and Judy Mohammed scuffled with Beverley Gosselin which resulted in Beverley Gosselin being put on the ground. Ms. Gosselin testified that she called the police because of this at around 4:00 or 5:00 p.m. Viola and Judy left the home of Beverley Gosselin, at which point the 26 oz. bottle of vodka was empty.

Gordon Campbell in his statement stated that when he saw Viola and Judy again at around 5:30 or 6:00 p.m. he was lying on the couch watching T.V., "when Viola came banging on the window wanting to come in. Her sister was with her and I could tell that they were drunk. I told her to go away and that I didn't want them in my house. She stood outside for a bit, then must have got mad because she started breaking my windows then ran off."

Noreen Nancy Luce the owner of the Dawson Bay Hotel, Mafeking, Manitoba also gave the RCMP a statement on March 15th which was received as Exhibit 8 at this Inquest. She stated that Viola Contois and another woman came in around 6:00 p.m. and "they didn't have no money so we didn't serve them. That's when they stole that bottle of Jack Daniels." Later in the statement Ms. Luce says "She come back in around 7:00 p.m. and she come as far as the lobby. I kicked them out. Brent come about not even five minutes later and he looked for them..."

RCMP Constables Stewart Oman and Brent Novakoski were already pursuing Viola Contois based on the allegations arising from Birch River when they attended at the Dawson Bay Hotel in Mafeking and just missed finding Viola Contois there. After further search, the constables eventually found Ms. Contois and her sister in the washroom at BJ's Service Station in Mafeking, after 8:00 p.m. Constable Oman testified that he saw a female sitting on the toilet. He testified that he awakened this woman (Judy Mohammed) and escorted her to the police vehicle. Viola Contois was found lying on the washroom floor with her head against the wall under the sink. She was unconscious and the officers were unable to awaken her.

Viola had to be carried to the police vehicle by both officers and the owner of BJ's Service Station. In the police vehicle she was placed in the "recovery position" lying on the back seat of the police vehicle. Constable Oman testified that he detected air coming out of her mouth and that she appeared to be snoring.

Constable Oman testified that when they picked up Contois, they were in contact with the Swan River detachment of the RCMP. The officers were asked if they needed an ambulance dispatched to Mafeking, which is 80 km north of Swan River. Constables Oman and Novakoski made a decision not to have an ambulance dispatched, but rather left Mafeking at 8:35 p.m. to drive Viola Contois directly to the Swan Valley Hospital to have her checked out.

The hospital was advised that police were bringing in this unconscious patient who had consumed a considerable amount of alcohol and also might have consumed drugs. Trisha Leason who was a receptionist at the Swan Valley Regional Hospital, testified that she received an initial call from the RCMP at approximately 8:30 – 8:40 p.m.

The police officers testified that from a legal perspective they had arrested and detained the two individuals under the *Intoxicated Persons Detention Act*.

The police proceeded on the 80 km trip from Mafeking to Swan River with their lights flashing at a speed of 110 – 120 km per hour. On route, Constable Oman and Constable Novakoski stopped on three occasions to check on the condition of the unconscious Viola Contois. Constable Oman testified under cross-examination that they felt there was no cause for alarm at the first stop, which was a short distance south of Mafeking. On the second stop on route, Constable Novakoski checked on the condition of Viola Contois and there was no reason for alarm in his opinion.

However, on the third stop just outside of Bowsman, Manitoba, approximately 14 km north of Swan River, both officers recognized that Ms. Contois's situation was dire. Constable Oman testified that she appeared deceased to him. The officers decided not to utilize CPR at this point nor to call an ambulance, but rather to go into what was referred to as "full code red" and proceeded at 160 – 180 km/hour with lights and siren in operation.

The police judgment call was that being close to Swan River it would be quicker to drive Ms. Contois to the hospital rather than to wait for an ambulance or undertake any CPR procedures along the highway.

Ms. Betty Russell, a nurse in the Swan Valley Emergency Room, testified that the RCMP arrived at the hospital with Viola Contois at approximately 9:05 p.m. A telephone call pertaining to the patient having ceased breathing had been received approximately 10 minutes before that at 8:55 p.m.

Nurses Russell and Mike Sinclair attempted a number of emergency medical procedures in accordance with the "Advanced Cardiac Life Support Protocol" which included establishing an airway, putting in an airway tube and utilizing an oxygen bag with ten or fifteen litres of oxygen to "breath" the patient. Appropriate drugs were administered. Dr. Smit who was the attending physician intubated the patient.

Regrettably, Viola Contois never resumed breathing nor exhibited any pulse. In the result Dr. Smit pronounced her dead at 21:38 hours or 9:38 p.m. The tragic day which lead to Viola Contois's death can be summarized as a tragic decent into lethal intoxication.

RCMP POLICY WITH REGARD TO UNCONSCIOUS PERSONS

Sargent William Alexander McKenzie of the RCMP testified with regard to the RCMP policy manual, specifically the polices set out under the heading Medical Treatment, as follows:

> 3.a. If there is any indication that a person in your custody is ill, suspected of having acute alcohol poisoning or a drug overdose, concealing drugs internally, injured or not fully conscious, even if the person denies same, ensure that he/she:
>
> 1. is examined by a medical practitioner,
>
> 2. receives immediate medical treatment, and

3. is not placed in a cell unless a medical examination finds him/her fit to be incarcerated.

NOTES:

1. Where it is suspected that drugs have been ingested for the purpose of smuggling, ensure that the attending physician is informed of all the particulars.

2. Not fully conscious means that the person is unable to communicate, respond to simple directions or transport himself/herself a short distance.

3. If the person is snoring and has consumed alcohol or drugs or has sustained a head injury, it may be an indication of a depressed respiratory ability and a partial obstruction of the airway.

Upon examination of these policies, it is notable firstly that Nos. 1, 2 and 3 under subsection 3.a. are conjunctive. Accordingly, it is fair to conclude that it is the duty of RCMP members dealing with those suspected of having acute alcohol poisoning or drug overdose or not fully conscious to 1) have the person examined by a medical practitioner, 2) ensure that the person receives immediate medical treatment, and 3) ensure that the person is fit to be incarcerated before being placed in cells pursuant to the medical examination.

MEDICAL INFORMATION

The most significant medical information is the autopsy report provided by Dr. Godsalve, MD., FRCPC., who also testified before the inquest. Dr. Godsalve stated the immediate cause of death as acute ethanol intoxication. She also stated another significant condition contributed to death was terminal aspiration of gastric contents.

In terms of the toxicology results from St. Boniface Hospital showed a blood ethanol reading of 566 mg/dl, urine ethanol reading of 519 mg/dl, and vitreous ethanol of 627 mg/dl. I note Dr. Godsalve's comment on toxicology - "the patient's ethanol levels and blood and vitreous humor are within the lethal range such as death can be attributed to acute ethanol intoxication. No other significant levels of other drugs were identified."

This Inquest received evidence from Ms. Shirley A. Treacy, Master of Science and Toxicology Section of the RCMP Forensic Laboratory, who provided an analysis as to the significance of those drugs which were found in Viola Contois's system.

I am satisfied that it was the acute level of alcohol in Viola Contois's system which caused her death. I also received the evidence of the Forensic Alcohol Specialist, Mr. Randall Prokopanko, who testified that the level of alcohol in Viola Contois's system was well above the lethal level.

Nurse Mike Sinclair testified regarding an unconscious patient who appears to be snoring. Nurse Sinclair testified that snoring might indeed be an indication of damage to the breathing centre of the brain. Apparent snoring does not necessarily indicate that the patient is merely sleeping, but may indicate that the patient cannot control his or her manner or rate of breathing.

THE MAFEKING FIRST RESPONDERS

The testimony of Nurse Betty Russell provided the first evidence as to the existence of the Mafeking first responders. The Mafeking first responders are trained emergency medical personnel who can provide a great deal of on site care in the Mafeking area while a patient awaits transport by ambulance to the Swan Valley Regional Hospital. This would include CPR, the use of an airway tube, oxygen bag, etc. The one thing the first responders could not do would be to administer the drugs which were administered at the Swan Valley Hospital in this case. According to the testimony of Nurse Russell, these drugs would not have been administered by the Swan Valley Ambulance had they been dispatched to Mafeking on March 14th for Viola Contois.

Members of the Mafeking first responders testified that they keep their equipment for emergency medical assistance at the Mafeking fire hall and could be on the scene within a period of five minutes.

The availability of this resource (the Mafeking first responders) emerged as an issue during the course of the Inquest. It did not come up during the examination of Constables Oman and Novakoski. Therefore, at the end of the proceedings I asked that there be a follow-up question posed to the two constables regarding their knowledge of the first responders in Mafeking, Manitoba. On February 10th, 2003, I received a letter from Mr. Clouston with copies to Mr. Hay and Mr. Brennan, wherein he provided the constables' respective response to the following question:

"Were you aware of the existence of the Mafeking first responders as of March 14th, 2001? Yes or no."

Constable Novakoski responded "Please be advised that every time I was involved with any medical needs in Mafeking, the Swan Valley Ambulance was always dispatched. I was not aware that there was a first responder unit in Mafeking and I don't recall them ever being used."

Constable Oman responded "The short answer is no, I was unaware of the existence of the Mafeking first responders unit."

ANALYSIS OF THE EVIDENCE HEARD

The judgments made by Constables Novakoski and Oman on the evening in question were without the benefit of being aware of the Mafeking first responders unit. The issue is how should officers in the field become aware of such medical resources? In a broader sense how do police generally become apprised of local medical resources and what do the police do in order to utilize such resources?

The RCMP manual as established in Ottawa or perhaps Winnipeg will not avail in informing the constable in the field of what is available in a remote community such as Mafeking. Having heard the evidence at this Inquest, I conclude that it is a reasonable standard of care to expect the police in each community to be aware of the appropriate and immediate sources for medical treatment for patients/prisoners in their custody, be they unconscious or otherwise in need of medical attention.

According to the testimony of Nurse Russell, a mere call to 911 would have resulted in the first responders being contacted through the Swan Valley Ambulance Service. In the result, even in the absence of knowledge of the existence of Mafeking first responders, a call to 911 would have resulted in the first responders being dispatched.

Having regard to the RCMP policy with regard to unconscious persons, number 2 states that the police must ensure that the patient (prisoner) receives immediate medical treatment. In order to do this the police must be aware of the resources available in each community in which they operate. If they do not know this information, it is incumbent upon them to find out. Moreover, it is incumbent upon the officer in charge at each detachment to inform officers, particularly officers new to the detachment, of exactly what is available.

Policies established in Ottawa will not result in the police being aware of resources available in their respective communities. For a constable in the field to comply with the requirement that an unconscious person receive immediate medical treatment, that constable must be aware of what is available in the community.

It is also important that the police make the call to the emergency number, be it 911 or otherwise, when they come across a situation which presents itself as a potential medical emergency. Detaining an unconscious person under the *Intoxicated Persons Detention Act* becomes secondary. In this case, Ms. Contois was not going anywhere unassisted.

The first step for anyone when coming upon a medical emergency (after assessing the scene) is to call the emergency number to ensure that help is on the way. I received no evidence that police officers are provided with any particular medical knowledge beyond basic CPR that will ensure the timely treatment of an unconscious person or anyone else needing medical attention. Being in police custody does not replace the need for immediate medical attention.

To put this another way, I apply the reasonable person test to circumstances where one finds an unconscious person lying on the floor of a washroom in a service station. In the ordinary course of events, top priority must be given to calling or seeing that someone else calls the emergency number.

In this case, Constables Oman and Novakoski were seeking Viola Contois for the purpose of charging her with what must be regarded minor criminal involvement and under the *Intoxicated Persons Detention Act*. Circumstances changed dramatically when they found Viola Contois unconscious on the washroom floor of the service station in Mafeking. The judgment which the two constables made to have the Swan River Detachment phone the receptionist at the Swan Valley Hospital and advise that they were bringing in an unconscious patient was not adequate in the circumstances, and it was subject to a lack of awareness of the Mafeking first responders.

Having said all this, I hasten to add that all parties agree that there was no bad faith on behalf of the two officers involved in this case. Ms. Contois died as a result of acute ethanol intoxication or alcohol poisoning. On all accounts her blood alcohol level was over 500 mg per cent. The result of this type of ethanol poisoning is that the entire nervous system shuts down resulting in the cessation of the patient's breathing and heartbeat.

Dr. Godsalve testified that in this particular case it would be highly uncertain as to whether or not Ms. Contois would have ever been revived even with the best medical attention at the moment she was found in BJ's Service Station in Mafeking. It is important that Viola Contois's family know that she probably would have died because of this lethal level of alcohol in her system even if the most sophisticated medical attention had been available to her immediately in Mafeking.

Nonetheless, the issues and circumstances in this particular case are important not just to the family members of Ms. Contois but to others who might be found in similar circumstances and their loved ones. Indeed, these issues are important to the community at large.

RECOMMENDATIONS

I make the following recommendations based on my analysis:

1. That in all circumstances where the police are presented with a medical emergency, be it an unconscious person or otherwise, they phone or cause to be phoned the emergency number. When in doubt, the police should err on the side of considering a matter a medical emergency;

2. That all police officers inform themselves as to the available medical resources unique and specific to the communities in which they serve; and,

3. That the officer in charge of each police detachment ensure that he or she is aware of the medical resources available in each community in which the detachment provides police services and inform members under his or her command accordingly.

CONCLUSION

This case is important with respect to how medical emergencies are dealt with in isolated communities such as Mafeking. The police need to be able to recognize that they have encountered a medical emergency in the course of their duties. When in doubt, the important lesson of this case is that the police should err on the side of caution and assume a medical emergency. Although Mafeking is a relatively isolated community some 80 km north of Swan River, it nonetheless has available within five minutes the services of a first responders unit that is capable of providing a great deal more than rudimentary first aid.

To summarize, Viola Contois did not receive the medical attention she should have in these particular circumstances. She appears to have been highly unlikely to have survived in any event. Nonetheless, future situations will require that the police have a better appreciation of the medical needs of a person in an unconscious state and a better awareness of what is available in terms of medical assistance.

The medical needs of the individual must be given priority over the needs of the police to make an arrest, particularly in an instance properly described as minor criminal involvement.

I will make one final observation regarding the delivery of police and medical services in remote communities. In a city such as Winnipeg or Brandon (or even Dauphin), it may be appropriate to pick someone up and immediately take them to hospital which is likely a few blocks away. In a remote community such as Mafeking, it is essential for the police to be aware of the medical services that are available. It may have made no difference to Viola Contois, in the state in which she was found, but it certainly may make a difference to someone in the future.

Dated at the City of Dauphin, in the Province of Manitoba, this 27th day of March, 2003.

"R. W. Thompson"
Provincial Court Judge

"SCHEDULE B"

THE FATALITY INQUIRIES ACT
SCHEDULE ATTACHED TO PROVINCIAL JUDGE'S REPORT

RESPECTING THE DEATH OF: VIOLA CONTOIS

EXHIBIT LIST

EXHIBIT #	DESCRIPTION
1.	Statement of Marilyn Dawn Wyatt to RCMP on March 15, 2001.
2.	Statement of Lawrence Douglas Brass to RCMP on March 15, 2001.
3.	Statement of John Christopher Brandt to RCMP on March 15, 2001.
4.	Statement of Loretta Lynne Contois to RCMP on March 15, 2001.
5.	Statement of Gordon Louis Campbell to RCMP on March 15, 2001.
6.	Statement of Thelma Virginia Brass to RCMP on March 15, 2001.
7.	Statement of George Clayton Gosselin to RCMP on March 15, 2001.
8.	Statement of Noreen Nancy Luce to RCMP on March 15, 2001.
9.	Statement of Marsha Doreen Holomay to RCMP on March 15, 2001.
10.	Operational Manual, Prisoners and Mentally Disturbed Persons, Chapter No. III.3. (3 pages)
11.	Operational Manual, Prisoners and Mentally Disturbed Persons, Chapter No. III.3. (green copy, 5 pages)
12.	OM III.3 – Prisoners and Mentally Disturbed Persons.
13.	Statement of Judy Lynn Mohammed to RCMP on March 15, 2001.
14.	Statement of Flossie Betty Contois to RCMP on March 15, 2001.
15.	Autopsy Report Form by Dr. Godsalve dated May 14, 2001.
16.	Curriculum Vitae of Randall Theodore Prokopanko, Forensic Alcohol Specialist.
17.	Curriculum Vitae of Shirley Ann Treacy, Forensic Toxicologist.